IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

WP(C).No. 32085 of 2006(T)

PETITIONER:

SMT.K.M. CHRISTINAMMA, W/O.T.M.JOSEPH,
AGED 64, RESIDING AT THULAMATTATHL HOUSE,
KALLADIKODE P.O., PALAGHAT DISTRICT,
PIN-678 596.
P.D. TEACHER (RETD.) GOVT.M.L.P.S., KALLADIKODE.

BY ADV. SRI.S.SREEKUMAR
SRI.P.M.GHILS

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY
PRINCIPLE SECRETARY TO GOVERNMENT,
GENERAL EDUCATION (B) DEPARTMENT,
GOVT.SECRETARIAT, TRIVANDRUM.

2. THE DEPUTY DIRECTOR OF EDUCATIONS,
PALAGHAT.

BY GOVERNMENT PLEADER SHRI.T.T.MUHMOOD.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P(C).No. 32085/06.

APPENDIX

PETITIONER'S EXHIBITS:

P1. COPY OF THE GOVT. ORDER DTD.25.11.98.

P2. COPY OF THE REPRESENTATION DTD.5.6.99 BEFORE R1.

P3. COPY OF THE JUDGMENT IN O.P.NO.14006/99 OF THIS COURT.

P4. COPY OF THE ORDER DTD.10.11.06 BY R1.

P5. COPY OF THE GOVT. ORDER DTD.15.12.05.

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///True copy///

P.A. to Judge.

S.SIRI JAGAN, J.

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W.P.(C).No.32085 of 2006

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Dated this the 18th day of October, 2007

J U D G M E N T

The petitioner was working as a Primary Departmental Teacher. She retired from service on 31.3.1997. She actually completed 55 years on 15.12.1995. The petitioner continued in service upto 31.3.1996 only by virtue of Rule 60(c) of Part 1 of the Kerala Service Rules by which the teaching staff of an educational institution who acquired the age of 55 years during the academic year was permitted to continue in service till the last date of the month in which the academic year ends. After retirement of the petitioner, pay scales of Government employees were revised with effect from 1.3.1997. Therefore, the petitioner claimed benefit of the pay revision as she actually retired only on 31.3.1997. The same was not granted to the petitioner. In the meanwhile this court held that teachers who continued upto 31.3.1997 by virtue of Rule 60(c) of Part 1 of the KSR is also entitled to pay revision benefits. That decision was ultimately upheld by the Supreme Court. On the basis of that decision, by

Ext.P3 judgment, O.P.No.14006/1999 filed by the petitioner was also allowed, as a result of which, the petitioner became entitled to the benefit of pay revision. The petitioner has filed this writ petition since that benefit was not granted to her.

2. Although going by Ext.P3 judgment the petitioner would be entitled to such benefit, subsequently the Government amended Rule 60(c) to the effect that the extended period of service will not be reckoned as qualifying service for pension and the pay received during the period will not be reckoned for computing average emoluments for pensionary benefits or commuted value of pension. It was also stipulated therein that they shall also not eligible for the benefits of pay revision effective from a date after the date of superannuation which is the date when the teacher attains 55 years of age. This amendment was given retrospective effect from 15.5.1986. In view of this retrospective amendment, the petitioner is not entitled to the benefits of pay revision as claimed by her as per Ext.P3 judgment. In the above circumstances, this writ petition is dismissed.

sdk+ S.SIRI JAGAN, JUDGE